P-999/CI-87-697

ORDER ESTABLISHING US WEST BUSINESS PRACTICES FOR INTRALATA PRESUBSCRIPTION

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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In the Matter of an Investigation into IntraLATA Equal Access and Presubscription

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DOCKET NO. P-999/CI-87-697

ORDER ESTABLISHING US WEST BUSINESS PRACTICES FOR INTRALATA PRESUBSCRIPTION

PROCEDURAL HISTORY

On July 21, 1994, the Commission issued its ORDER SETTING IMPLEMENTATION GUIDELINES FOR INTRALATA 1+ PRESUBSCRIPTION in the above-captioned matter. In that Order the Commission established a schedule for the implementation of intraLATA 1+ equal access and presubscription for Minnesota local exchange carriers (LECs) which do not currently provide the service. The Commission also required LECs to submit proposed educational materials for pre-approval by the Commission or its Staff.

On October 6, 1995, US WEST Communications, Inc. (US WEST) submitted its proposed customer notice for the implementation of intraLATA 1+ equal access. In filed comments, the Department of Public Service (the Department) expressed concern regarding the business practices US WEST planned to use as intraLATA equal access is implemented.

On December 1, 1995, the Commission issued its ORDER MODIFYING NOTICE PROPOSAL AND ESTABLISHING COMMENT PERIOD. In that Order the Commission established a schedule for parties' comments regarding US WEST's proposed business practices. The Commission included a list of questions for commenting parties to address.

On December 7, 1995, MCI Telecommunications Corporation (MCI) filed comments.

On December 8, 1995, Sprint/United Telephone Company (Sprint/United) and the Department filed comments.

On December 11, 1995, AT&T, US WEST, and the Residential Utilities Division of the Office of Attorney General (RUD-OAG) filed comments.

Reply comments from AT&T, the Department, MCI, the RUD-OAG, and US WEST were filed on December 18, 1995.

US WEST filed supplemental reply comments on December 21, 1995.

On January 4, 1995, the matter came before the Commission for consideration.

FINDINGS AND CONCLUSIONS

I. INTRODUCTION

In its December 1, 1995, Order, the Commission included 13 questions to be addressed by any party submitting comments on US WEST's business practices. In this Order, the Commission will discuss each of those issues in turn.

In the December 1, 1995, Order the Commission also invited interested parties to comment on any additional issues relevant to US WEST's proposed intraLATA equal access implementation methods. The RUD-OAG responded by raising two further issues; US WEST raised one additional issue. These issues will be addressed in this Order.

II. ISSUES RAISED IN THE DECEMBER 1 ORDER

A. If Both the InterLATA and IntraLATA PICs Are Changed at the Same Time, Should Both PIC Change Charges Apply?

1. Comments of the Parties

Equal access presubscription allows customers to select a Primary Interexchange Carrier (PIC) to carry either interLATA or intraLATA interexchange calls on a 1+ basis. Because software within end office switches must be modified to accommodate a PIC change, there is often a charge to the customer for such a change.

US WEST planned to charge $5.00 for each PIC change, even if both interLATA and intraLATA PICs are changed at the same time to the same carrier. US WEST stated that changing both PICs involves more work than changing just one. Also, a carrier participating in the interLATA market would have an unfair advantage over US WEST if the carrier could get two PIC changes for the price of one, since US WEST cannot participate in the interLATA market and would therefore always pay the full price for a PIC change.

MCI stated that changing both interLATA and intraLATA PICs involves a single transaction, for which one $5.00 charge should apply. AT&T asked that US WEST be required to file a total service long run incremental cost (TSLRIC) study to support the $5.00 charge.

The Department stated that a $5.00 PIC change charge has been accepted in the interLATA toll context and should also be considered reasonable for the intraLATA toll setting. When a one-time transaction changes both interLATA and intraLATA PIC to the same carrier, US WEST should be limited to a single $5.00 fee. The RUD-OAG agreed.

2. Commission Analysis

The Commission agrees with commenting parties that US WEST's customer charge for intraLATA or interLATA PIC changes should not exceed US WEST's TSLRIC for the changes. A $5.00 PIC change charge has been accepted as appropriate in the interLATA jurisdiction. Because a simultaneous change of both inter- and intraLATA PIC to the same carrier involves a single transaction, the Commission will require US WEST in such a case to waive the intraLATA change charge. US WEST shall continue to waive the intraLATA PIC change charge when inter- and intraLATA changes are made simultaneously until such time (if any) that US WEST is able to show that a single $5.00 charge does not recover the TSLRC for both PIC changes.

The Commission has noted US WEST's argument that carriers will now be able to take advantage of two PIC changes at one charge, while US WEST (which is currently precluded from the interLATA toll market), cannot. The Commission also notes, however, that US WEST will be entering the interLATA toll market in the future; at that time, US WEST will also be able to take advantage of the single charge.

B. Should Accounts That Are Currently Frozen to an InterLATA PIC Be Automatically Frozen to US WEST as the IntraLATA PIC?

1. Comments of the Parties

In a small percentage of cases, customers who have been "slammed" (switched from one interLATA PIC to another without the customer's authorization) have asked US WEST to block (or freeze) any further PIC changes. US WEST implements the freeze on the account level, which means that it applies automatically to both interLATA and intraLATA jurisdictions. US WEST proposed that an account which is currently frozen to an interLATA PIC be automatically frozen to US WEST as the intraLATA PIC after intraLATA presubscription is implemented.

US WEST's account freeze proposal would apply only to mechanized changes coming from carriers. If a customer asks US WEST directly to make a PIC change, US WEST will make the change.

MCI, AT&T and Sprint/United protested that US WEST's proposal is anticompetitive. AT&T and Sprint/United suggested that a customer with a frozen interLATA PIC choice could be automatically frozen to the same carrier for intraLATA service.

The Department stated that customers who have requested a freeze on their interLATA carrier choice should not be automatically frozen to US WEST as their intraLATA carrier, absent an affirmative request. To allow US WEST to automatically freeze these customers for intraLATA service would be anticompetitive.

The RUD-OAG stated that existing interLATA PIC freezes should be extended to current intraLATA service unless the customer states otherwise. Customers should be notified that their intraLATA service will be automatically frozen absent an affirmative statement.

At the January 4, 1996, meeting, all parties generally agreed with US WEST's proposed treatment and the RUD-OAG's notice recommendation. AT&T continued to insist that US WEST be required to develop technology to distinguish interLATA PIC freeze requests from intraLATA PIC freeze requests.

2. Commission Analysis

The Commission agrees with the RUD-OAG that the small percentage of customers who have previously requested a freeze on interLATA PIC changes have expressed a strong desire to stop future unauthorized PIC changes. Because US WEST cannot at this time distinguish interLATA freeze requests from intraLATA requests, the Commission agrees with the Company that its customers who currently have a frozen interLATA selection should be automatically frozen to US WEST for intraLATA service, absent an affirmative statement otherwise. At the same time, the Commission also agrees with the RUD-OAG that US WEST must inform the frozen customers that intraLATA equal access will be available as of February 16, 1996. US WEST must also provide the customers with explicit instructions on how they may change (and then freeze) their intraLATA PIC to another carrier. The notice to customers should limit any competitive advantage to US WEST from the automatic freeze to US WEST for intraLATA toll service.

C. Is It Acceptable for US WEST to Accept Letters of Agency Dated January 2, 1996 or Later?

1. Comments of the Parties

A letter of agency (LOA) is a customer's signed letter authorizing a change in carrier. LOAs are often sent by the customer to the interexchange carrier (IXC), which in turn sends it on to a LEC for implementation. The carrier's request is usually a mechanized, computer-to-computer transaction.

US WEST planned to send out bill inserts in December informing its customers of the availability of intraLATA 1+ presubscription on February 16, 1996. US WEST established January 2, 1996, as the earliest acceptable date for a customer's LOA. US WEST reasoned that customers should receive notice of the upcoming availability of intraLATA presubscription before they make a choice based on carriers' marketing efforts.

US WEST also explained that it will not be able to accept and process an LOA requesting a change in intraLATA toll service until February 16, 1996. Prior to that time, US WEST's system will read the LOA as a request for a change in *inter*LATA service.

US WEST stated that it would process intraLATA LOAs as quickly as possible, beginning February 16, 1996. US WEST's systems implementation will operate 24 hours a day for at least the first ten days after intraLATA toll implementation, and longer if backlogs still exist.

MCI, Sprint/United, and the RUD-OAG found the January 2 date for acceptance of intraLATA LOAs acceptable. AT&T recommended that US WEST either accept LOAs dated prior to January 2 or accept all LOAs as of that date.

The Department recommended that US WEST be required to accept LOAs of any date, with processing occurring on and after February 16, 1996. No more than two days from the date of request should be required for US WEST to effect the change.

2. Commission Analysis

Although US WEST will not be able to implement intraLATA carrier changes prior to February 16, 1996, the Commission finds that US WEST should accept written or verbal intraLATA LOAs from customers and carriers as of the Company's suggested date of January 2, 1996, regardless of the actual date of the LOA. Rejecting requests dated before January 2 is not acceptable, because the date of the correspondence seems to have little bearing on the Company's ability to process requests.

The Commission notes US WEST's statement that, for those accounts for which more than one LOA is submitted, the LOA with the latest date will be the one processed.

Because US WEST's computer system cannot accommodate mechanized or computerized LOAs from carriers before February 16, 1996, US WEST will not be required to accept this type of LOA prior to that time.

US WEST's plans for speedy implementation of LOAs as of February 16, 1996, are acceptable.

D. Are US WEST's Proposed Processes for New Connect Orders Satisfactory?

1. Comments of the Parties

US WEST proposed the following procedures when customers place new telephone orders:

- US WEST will attempt to promote its intraLATA services when a customer places a new connect order, unless the customer requests a specific carrier "up front," in which case US WEST will refer the caller to that carrier

- a list of available carriers will only be provided if the customer specifically asks for alternatives

- if an intraLATA PIC request comes from a new end user, US WEST will allow the customer up to 30 days to make a PIC selection without incurring the $5.00 PIC change charge

MCI, AT&T, and Sprint/United protested that US WEST should not be allowed to use its dominant status in the local market to the competitive disadvantage of carriers entering the intraLATA toll market. According to these companies, the Commission should require US WEST to use separate work groups to handle customers' business inquiries and to market its toll service.

The Department agreed that care must be taken that US WEST does not leverage its dominant local service status into unfair competition with other carriers. The Department recommended that US WEST be required to inform new local exchange customers of the intraLATA carrier choices available to them, just as it informs customers of their interLATA choices. At the January 4, 1996, meeting, the Department recommended that US WEST be required to submit a proposed "script" the Company's service representatives will follow when they are contacted by customers seeking service. The script would be examined by the Commission or its Staff to ensure that US WEST's customer contacts are competitively neutral.

2. Commission Analysis

The Commission agrees with commenting parties that US WEST must not use its position as the dominant local carrier to achieve a superior competitive status in the opening intraLATA toll market. When a customer contacts US WEST seeking new service, or for any other reason that relates to US WEST's position as the customer's local service provider, US WEST's customer service representatives should not influence the customer's choice of intraLATA toll carrier or persuade the customer to subscribe to US WEST.

The Commission will not at this time require US WEST to establish a separate group of customer service representatives to market the Company's intraLATA services, as some commenting parties have suggested. The Commission will, however, require US WEST to do any necessary training or monitoring to ensure that its service representatives do not handle their customer contacts in anything but a competitively neutral fashion.

The Commission agrees with the Department that US WEST should be required to submit for Commission approval a proposed script which its customer service representatives will follow when contacted by customers seeking service. The script should cover the Company's proposed method of informing the customer regarding intraLATA toll carrier choice. The script must not contain language which seeks to leverage US WEST's dominant local carrier position into competitive advantage in the intraLATA toll arena.

Finally, the Commission clarifies that US WEST's customer service representatives must process any request of a customer seeking a change in intraLATA carriers.

E. Is US WEST's Proposed Process for Transfer of Service Requests Satisfactory?

1. Comments of the Parties

US WEST proposed the following procedures when customers request transfers of service:

- if the customer's intraLATA PIC is not US WEST, US WEST will inform the customer that US WEST also provides the service
- if the customer currently has US WEST as its intraLATA PIC, no selling will occur
- if the customer requests an inter- or intraLATA PIC change, US WEST will complete the change for a charge of $5.00 per change

US WEST stated that it will attempt to make a customer transferring locations aware of US WEST products the customer is not using, such as Voice Messaging, Call Waiting, and intraLATA long distance service.

MCI and AT&T stated that US WEST should not be allowed to leverage its local exchange "bottleneck" position to gain a competitive advantage in the intraLATA toll market.

The Department stated that US WEST should be required to inform customers changing locations of the intraLATA carrier choices available to them.

2. Commission Analysis

The Commission's analysis of US WEST's business practices for transfer of service requests is the same as its analysis of proposed business practices for requests for new service. In each case, the Company's service representatives must respond in a competitively neutral fashion. When the customer contact relates to US WEST's role as the customer's local service provider, the service representatives must not use the contact to influence the customer's choice of intraLATA toll provider. US WEST will be required to submit for Commission approval a proposed script which its customer service representatives will follow when contacted by a customer seeking a transfer of service. The script should cover the Company's proposed method of informing the customer regarding intraLATA toll carrier choice. The script must not contain language which seeks to leverage US WEST's dominant local carrier position into competitive advantage in the intraLATA toll arena.

F. Is US WEST's Proposed Process for Stand-Alone PIC Changes Satisfactory?

1. Comments of the Parties

US WEST proposed the following procedures when a customer calls the business office requesting a change in intraLATA carrier:

- if the customer contacts US WEST to make the change, US WEST will attempt to retain the customer

- if the customer remains committed to a change in intraLATA service, US WEST will refer the customer to the carrier of choice. If the customer states that the customer wants the PIC changed "now," US WEST will make the change

US WEST stated that prohibiting it from this degree of effort to retain its business would be anti-competitive and a constraint on its freedom of speech. It would also make US WEST an uncompensated agent for its competitors.

MCI and AT&T stated that a customer initiating a change in intraLATA service should be treated the same as a customer initiating a change in interLATA service: US WEST should process the customer's request, without marketing its own service, and issue the service order.

The Department stated that US WEST's proposed procedures would not result in a competitively neutral environment. US WEST should be required to maintain separate sales groups to answer questions about its intraLATA toll service and to solicit business.

2. Commission Analysis

The Commission's analysis of US WEST's business practices for stand-alone PIC changes is the same as its analysis of proposed business practices for requests for new service or service transfers. In each case, the Company's service representatives must respond in a competitively neutral fashion. When the customer contact relates to US WEST's role as a customer's local service provider, the service representatives must not use the contact to influence the customer's choice of intraLATA toll provider. US WEST will be required to submit for Commission approval a proposed script which its customer service representatives will follow when contacted by a customer seeking a stand-alone PIC change. The script should cover the Company's proposed method of informing the customer regarding intraLATA toll carrier choice. The script must not contain language which seeks to leverage US WEST's dominant local carrier position into competitive advantage in the intraLATA toll arena.

G. Should Customers That Do Not Make an IntraLATA PIC Selection Default Automatically to US WEST as They Do Today?

1. Comments of the Parties

US WEST stated that its current intraLATA toll customers will continue to receive intraLATA service from US WEST after intraLATA presubscription is implemented, absent an affirmative request for change. New customers must pick both an intraLATA and an interLATA provider; they will not be able to place a toll call until a carrier is selected.

Most commenting parties agreed with US WEST's proposal. In its comments, AT&T recommended that non-selecting customers default to their interLATA PIC. At the January 4, 1996, meeting, AT&T agreed with US WEST's proposal.

2. Commission Analysis

The parties have reached consensus that US WEST's handling of non-selecting customers is appropriate. The Commission agrees. US WEST's current intraLATA toll customers will continue to receive intraLATA toll service from US WEST after the cutover to intraLATA equal access, unless they request a change. New customers who do not select an intraLATA carrier will be assigned "no PIC." A new customer will have to make an affirmative intraLATA carrier selection before the customer will be able to make a 1+ dialed intraLATA toll call.

H. Is US WEST's Procedure for Handling Customer Call Detail Satisfactory?

1. Comments of the Parties

US WEST's Center for Customer Service performs the Company's sales function and the Credit Management Center performs collection and credit functions. Both groups have access to customer call detail on an "as needed" basis. US WEST trains its employees on the intraLATA process and stresses the Company's internal code of ethics. Ethical behavior is reviewed annually; the Company's policy includes disciplinary sanctions. Customer contact personnel are forbidden to use an IXC's call detail information, garnered while performing billing and collection functions for the IXCs, to market US WEST's products or services.

MCI, AT&T, and the Department stated that US WEST must maintain separate sales and customer service staffs so that the information gathered through the local exchange business process is not used to competitors' disadvantage.

The RUD-OAG stated that US WEST should not use its LEC operations to market its intraLATA toll sales. On calls initiated by a customer, US WEST should be prohibited from actively encouraging or discouraging the choice of any intraLATA carrier over another.

2. Commission Analysis

Again, the Commission notes that US WEST must not exploit its position as the dominant local carrier to gain a competitive advantage over new intraLATA toll carriers. While the Commission will not at this time require the Company to maintain a separate intraLATA toll marketing group, the Company's customer representatives must provide information on available intraLATA carriers on a competitively neutral basis.

If proprietary carrier information is available to US WEST's customer service representatives, the appropriate use of the information should be covered in the billing and collection contracts between US WEST and the carriers.

I. Should US WEST Separate InterLATA and IntraLATA Toll Calls on the Customer's Bill if the Carrier is the Same?

1. Comments of the Parties

US WEST provides billing services for IXCs by two methods. In the first method, the carrier provides US WEST with invoice-ready billing detail and US WEST prints the bill just as the information is provided. The carriers thus decide whether to group or intersperse interLATA and intraLATA call information. In the second method, US WEST performs a billing service, part of which is providing the call detail information. In the latter case, if the carrier provides both interLATA and intraLATA toll service, US WEST intersperses the interLATA and intraLATA call detail information on the bill. Although US WEST will group interLATA and intraLATA information upon a carrier's request, the carrier will be subject to extra charges for the special service.

Commenting parties seemed to generally agree that there is no need to group interLATA and intraLATA call detail if the carriers are the same.

2. Commission Analysis

The Commission finds that US WEST's proposed business practice for interLATA and interLATA billing detail is appropriate. If a customer has the same toll provider for both interLATA and intraLATA toll calling and US WEST does the provider's billing and collection, US WEST may intersperse the interLATA and intraLATA billing detail on the customer's bill. If the carrier wants to have the interLATA and intraLATA billing detail grouped, the carrier should work with US WEST to negotiate this custom billing arrangement.

J. What Is the Proper Language to Identify the InterLATA PIC and the IntraLATA PIC on the Customer's Bill?

1. Comments of the Parties

US WEST proposed the following language to identify the interLATA and intraLATA PIC on telephone bills:

> The company you have chosen for calls outside the US WEST Communications long distance calling area is XXXXXXXXX.
>
> The company you have chosen for calls within the US WEST Communications long distance calling area is XXXXXXXXX.

US WEST stated that it should be allowed to describe the current PICs on a customers' bill in this fashion, which has been tested by time and found to be understandable. US WEST argued that Commission control of tagline wording would infringe the Company's First Amendment right of free speech.

Other parties protested that US WEST's proposed wording implies that the Company has some proprietary claim on intraLATA 1+ dialing. The parties submitted various alternatives to the Company's proposed wording.

2. Commission Analysis

The Commission agrees with commenting parties that US WEST's proposed tagline for intraLATA and interLATA toll billing information does not present the intraLATA toll picture in a competitively neutral manner. The Commission finds that US WEST should substitute language which is consistent with the intraLATA presubscription notice language already approved by the Commission. The billing language would thus read:

> The company you have chosen for interLATA calls (long distance calls outside your local toll calling area) is XXXXXXX.
>
> The company you have chosen for intraLATA calls (long distance calls inside your local toll calling area) is XXXXXXX.

This language clearly conveys the necessary PIC information without linking any particular provider to the long distance calling area concept.

The Commission notes that approving proposed bill insert and bill message language is a normal and necessary part of its regulatory function. It is not an infringement of US WEST's First Amendment rights.

K. Is US WEST Responding Appropriately to Carriers' Requests for the Ability to Issue a Blanket Access Service Request to Establish Additional FG-D Capacity?

1. Comments of the Parties

Feature Group D (FG-D) capacity is the level of switched access facility necessary to provide inter- or intraLATA equal access.

US WEST stated that the industry standard for establishing additional FG-D capacity is the issuance of an Access Service Request (ASR) and Translation Questionnaire (TQ). The ASR is the actual request for additional FG-D trunks and the TQ identifies translations required for these additional trunks.

According to US WEST, if an existing carrier customer has FG-D trunks carrying interLATA traffic today, the same trunks can be used for carrying intraLATA traffic and no ASR or TQ is necessary. If the carrier wants additional FG-D trunks to carry either additional inter- or intraLATA traffic, an ASR and TQ is necessary.

The commenting carriers differed in their response to this issue. MCI stated that US WEST should accept blanket requests for additional FG-D capacity. AT&T stated that routine requests for additional FG-D capacity should require an ASR but not a TQ; both items may be necessary in special situations. Sprint/United stated that US WEST should be required to follow the same processes for additional intraLATA capacity as are now in place for interLATA capacity.

In reply comments, US WEST stated that it would continue the same process for intraLATA requests for FG-D capacity as it currently follows for interLATA service.

At the January 4 meeting, no party disagreed with US WEST's proposal.

2. Commission Analysis

Since the same capacity can be used for either inter- or intraLATA capacity, the Commission finds that it is logical and appropriate that US WEST should follow the same requirements for additional FG-D capacity in the intraLATA venue as it follows for interLATA service. Any carrier wishing to obtain additional FG-D capacity should file with US WEST the information required for additional capacity for interLATA service.

The Commission thus finds US WEST's proposal acceptable.

L. Is US WEST's Handling of Directory Assistance Calls Reasonable?

1. Comments of the Parties

US WEST stated that dialing for long distance information (1+area code+555-1212) is a unique process, the characteristics of which stem from a 1984 federal court ruling. If the call is within an area code it is handled by US WEST; if it is to another area code, it is handled by the customer's interLATA carrier (regardless of whether the call is interLATA or intraLATA).

A call to long distance information is transported over IXC lines (determined by the PIC for the caller's line) to the operator, who looks up the number requested by the caller. The operator gives the number to the customer, who must dial the number using the customer's carrier of choice.

MCI, AT&T, and Sprint/United stated that an intraLATA long distance information call should be routed to the intraLATA PIC, if technically feasible.

The RUD-OAG stated that this is not a pertinent issue in this docket, because directory assistance is a competitive service. If US WEST's competitors feel that US WEST is handling the calls in an anticompetitive manner, the companies have the option of filing a complaint.

No party at the January 4 meeting expressed disagreement with US WEST's proposed handling of long distance information.

2. Commission Analysis

The Commission finds that US WEST's proposed handling of long distance information, in which US WEST operators will provide the long distance information when the call is within an area code, is acceptable. At this time, it is not technically feasible for US WEST to route calls to directory assistance for a number within the area code to the customer's presubscribed intraLATA PIC.

M. Would a Commission Decision on Whether US WEST's Business Practices Are in Compliance with Earlier Orders Be Subject to Reconsideration?

1. Comments of the Parties

US WEST stated that its business office practices comprise a new issue arising from previous Commission Orders. Comments on the Company's business practices are currently being handled in a manner similar to an investigation under Minn. Stat. § 237.081.

US WEST stated that conversion to intraLATA equal access will take place on February 16, 1996, regardless of how the Commission deals with US WEST's business practice issues.

All other commenting parties agreed that any reconsideration of the Commission's decision on US WEST's business practices should not be allowed to delay implementation of intraLATA presubscription.

2. Commission Analysis

The Commission's decisions on US WEST's business practices will be subject to reconsideration. The Commission agrees with the parties that the implementation of intraLATA presubscription has long been planned for February 16, 1996, and should not be delayed by requests for reconsideration, if any.

The Commission will be establishing the appropriate business practices for US WEST in this Order. The decisions on the Company's procedures will remain in effect unless the Order is amended by a subsequent decision upon reconsideration.

III. ISSUES RAISED BY THE PARTIES

A. May Local Service Be Interrupted or Disconnected for Non-Payment of IntraLATA Toll?

1. Comments of the Parties

In its comments, the RUD-OAG asked the Commission to clarify that local service may not be interrupted or disconnected for non-payment of intraLATA toll charges. The RUD-OAG offered two main reasons for this interpretation:

1. If interruption of local service for non-payment of toll service is permitted, LECs who compete in the intraLATA toll market will have a billing and collection advantage over their competitors: the LECs will be able to disconnect or threaten to disconnect local dial tone, while their competitors will not.

2. Existing technology allows toll service to be blocked without affecting local service.

US WEST objected to the RUD-OAG's raising this issue in the current proceeding. Given the shortened time frames of this docket, and the upcoming deadline for implementation of intraLATA presubscription, it would be impossible to address and resolve this issue in this proceeding.

AT&T agreed that this is not the proper venue to address the issue raised by the RUD-OAG.

2. Commission Analysis

In previous Orders, the Commission has found that local service may not be disconnected for non-payment of long distance charges. See, for example, <u>In the Matter of the Applications for Authority to Provide Alternative Operator Services in Minnesota</u>, Docket No. P-999/CI-88-917, ORDER SETTING REGULATORY REQUIREMENTS FOR OPERATOR SERVICE FROM TRANSIENT LOCATIONS (November 19, 1991), and ORDER AFTER RECONSIDERATION (March 25, 1992).

The Commission has not, however, directly addressed this issue since the date of the aforementioned Orders. Because the telecommunications industry has undergone swift and profound change since that time, the Commission agrees with the RUD-OAG that this is an appropriate time to review the effect of intraLATA toll service on LECs' ability to disconnect local service. The Commission also agrees with the commenting parties that the current proceeding, which features shortened timelines and a narrow focus on intraLATA presubscription, is not the proper venue for investigating the local disconnect issue.

The Commission will therefore initiate a new proceeding, with a separate docket number, to consider how the rules regarding disconnection of local service apply to intraLATA and interLATA toll charges.

The Commission will also include in that proceeding another issue raised by the RUD-OAG, the elimination of monthly toll blocking charges. See Section III (C) below.

B. Do the Business Practices Addressed in This Order Apply Only to US WEST or to All Carriers with a Business Relationship with Customers That Includes Both Local and Long Distance Service?

1. Comments of the Parties

US WEST argued that any Commission decision on US WEST's business practices should be equally applicable to other companies that have a business relationship with customers that includes both local and long distance service. US WEST included the following companies in this category: Sprint/United; TDS/Arvig/Bridge Water; ILECs participating in MEANS; ETI; Frontier; and, shortly, AT&T, MCI, and GTE. US WEST stated that the Commission must establish business practices applicable to these entities through a Minn. Stat. § 237.081 investigation or a rulemaking.

MCI and AT&T stated that US WEST is uniquely situated as the only monopoly intraLATA carrier in Minnesota at this time. Also, only US WEST has had business practice complaints lodged against it.

The Department and the RUD-OAG agreed that the business practices of other LECs must be investigated in other filings. The Commission's decisions on US WEST will have precedential value in future proceedings.

2. Commission Analysis

This proceeding arose from the Department's questioning US WEST's proposed intraLATA presubscription business practices. The Commission has examined US WEST's proposals in light of the need for a competitively neutral environment as the intraLATA toll market opens. While the Commission's Order will affect only US WEST directly, the Commission's analysis of appropriate, competitively neutral business practices will set precedent for future inquiries regarding LEC procedures.

C. Should LECs Be Required to Eliminate the Separate Monthly Toll Blocking Charges?

1. Comments of the Parties

In its reply comments, the RUD-OAG noted a pricing inconsistency in US WEST's toll blocking service. While there is no charge to customers if they do not pick a long distance carrier, customers are charged a monthly fee for US WEST's blocking toll service. Because the results are the same in the two cases, the RUD-OAG argued that customers paying the monthly fee are being treated unfairly. The RUD-OAG asked the Commission to require all LECs to eliminate the monthly toll blocking fee, and to cap the toll blocking service charge at the charge for other PIC changes.

Because the RUD-OAG raised this issue in its reply comments, no other party commented regarding it.

2. Commission Analysis

The Commission finds that the RUD-OAG's issue warrants further inquiry. The Commission agrees with the commenting parties that this proceeding, which is narrowly focused on the fast-approaching implementation of intraLATA presubscription, is not the proper venue for the inquiry. The Commission will therefore include this issue in the investigative docket it is opening regarding local service disconnection. See Section III (A) above. Parties wishing to comment may address either or both issues.

ORDER

1. US WEST shall waive the intraLATA PIC change charge when inter- and intraLATA changes to the same carrier are made simultaneously until such time (if any) that US WEST is able to show that a single $5.00 charge does not recover the TSLRC for both PIC changes.

2. US WEST's customers who currently have a frozen interLATA PIC shall be automatically frozen to US WEST for intraLATA service upon intraLATA presubscription implementation, absent an affirmative statement otherwise. US WEST shall inform the frozen customers that intraLATA equal access will be available as of February 16, 1996. US WEST shall also provide the customers with explicit instructions on how they may change (and then freeze) their intraLATA PIC to another carrier.

3. US WEST shall accept written or verbal intraLATA LOAs from customers and carriers as of the Company's suggested date of January 2, 1996, regardless of the date of the LOA. US WEST shall accept mechanized or computerized LOAs from carriers from February 16, 1996, and implement them as quickly as possible thereafter.

4. When US WEST's customers contact the Company for new service, transfers of service, or stand-alone PIC changes, the Company's service representatives must respond in a competitively neutral fashion. When the customer contact relates to US WEST's role as the customer's local service provider, the service representatives must not use the contact to influence the customer's choice of intraLATA toll provider. US WEST will be required to submit for Commission or Staff approval a proposed script which its customer service representatives will follow when contacted by a customer seeking new service, transfers of service, or stand-alone PIC changes. The script should cover the Company's proposed method of informing the customer regarding intraLATA toll carrier choice. The script must not contain language which seeks to leverage US WEST's dominant local carrier position into competitive advantage in the intraLATA toll arena.

5. US WEST's current intraLATA toll customers will continue to receive intraLATA toll service from US WEST after the cutover to intraLATA equal access, unless they request a change. New customers who do not select an intraLATA carrier will be assigned "no PIC." A new customer will have to make an affirmative intraLATA carrier selection before the customer will be able to make a 1+ dialed intraLATA toll call.

6. If a customer has the same toll provider for both interLATA and intraLATA toll calling and US WEST does the provider's billing and collection, US WEST may intersperse the interLATA and intraLATA billing detail on the customer's bill. If the carrier wants to have the interLATA and intraLATA billing detail grouped, the carrier should work with US WEST to negotiate this custom billing arrangement.

7. US WEST shall use the following taglines to identify those portions of the bill related to intraLATA and interLATA toll:

   The company you have chosen for interLATA calls (long distance calls outside your local toll calling area) is XXXXXXX.

   The company you have chosen for intraLATA calls (long distance calls inside your local toll calling area) is XXXXXXX.

8. US WEST shall follow the same requirements for additional FG-D capacity in the intraLATA venue as it follows for interLATA service. Any carrier wishing to obtain additional FG-D capacity should file with US WEST the information required for additional capacity for interLATA service.

9. The Commission's decisions on US WEST's business practices will be subject to reconsideration. The Commission will be establishing the appropriate business practices for US WEST in this Order. The decisions on the Company's procedures will remain in effect unless the Order is amended by a subsequent decision upon reconsideration.

10. The Commission will initiate a new proceeding, with a separate docket number, to consider: 1) how the rules regarding disconnection of local service apply to intraLATA and interLATA toll charges; and 2) if LECs should be required to eliminate the separate monthly toll blocking charges.

11. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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